

REMARKS

This communication is in response to the Office Action of October 11, 2007 (hereinafter "Office Action"). The Office Action rejected Claims 7 and 16 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1 and 3-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Microsoft Corporations "*Microsoft Windows Management Instrumentation Scripting*," (hereinafter "MSWMI") in view of admitted prior art (hereafter "APA"). The Office Action also objected to Claim 17 due to an informality.

With this response, Claims 1 and 3-17 remain pending in the application.

Claim Objection

The Office Action pointed out an extraneous phrase "for performing" within Claim 17. Applicants have amended Claim 17 to remove this extraneous phrase. Applicants submit that the amendment has fully addressed the objection and rendered the object moot.

35 U.S.C. § 101 Rejections

The Office Action rejected Claims 7 and 16 as reciting non-patentable subject matter as these "computer-readable medium" claims could be construed as propagation signals that are asserted to be unpatentable subject matter. Applicants have followed the suggestions in the Office Action and have amended Claims 7 and 16 to now read as "computer-readable *storage* medium" claims. Applicants submit that the amendments to Claims 7 and 16 have fully addressed the 35 U.S.C. § 101 rejections and request that the rejections be withdrawn.

35 U.S.C. § 103(a) Rejections

The Office Action rejected Claims 1 and 3-17 as being obvious in view of MSWMI and the APA. For the reasons set forth below, applicants respectfully traverse the rejection of these claims.

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Discussion of MSWMI and the Present Application

Of significant importance to the present application is a discussion regarding MSWMI. This document (MSWMI) purportedly presents an overview of the Common Information Model (CIM) and the Windows Management Instrumentation (WMI) architecture. Applicants note that the present application also presents a similar discussion of CIM and WMI (see Fig. 3; page 14, line 25 – page 17, line 4), that is consistent with MSWMI. While consistent with MSWMI, the present application raises and addresses an issue with regard to WMI, particularly the issue of accessing WMI services (which execute in a native code environment on the computer system) from within a managed code environment, such as Microsoft's ASP.NET. In short, the present application points out and addresses the fact that CIM and WMI exist within the native code environment of a computer and not within a managed code environment, and code executing within the managed code environment has not been provided with a consistent mechanism for accessing such data/services.

As recited at numerous locations in the application, e.g., page 15, lines 4-9, WMI data/services are accessed via application programming interfaces, or APIs. As those skilled in the art will readily appreciate, WMI API interfaces are part and parcel of the WMI and therefore, exist and are accessible to programs executing in the native code environment (i.e., those on the right side of the process boundary as illustrated in Fig. 4.) The APA/present application specifically states that WMI services (i.e., the WMI APIs) are **not** available within a managed code environment, and applicants submit that nothing within MSWMI suggests that WMI services are available within a managed code environment.

Claim 1

Turning now to the claimed subject matter, Claim 1 recites, *inter alia*:

receiving a request at the runtime engine from the executing application for instrumentation data available outside said managed

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code runtime environment, the request including a path of an instrumentation data object for accessing the instrumentation data, options used to retrieve the instrumentation data object, and an identification of a parent of the instrumentation data object;

transmitting a corresponding request for said instrumentation data to an instrumentation data source external to said managed code runtime environment;

receiving a response to said corresponding request from said instrumentation data source;

converting said response to a format that is compatible with said managed code runtime environment. (Emphasis added.)

Applicants submit that, contrary to the assertion of the Office Action, MSWMI fails to disclose "receiving a request at the runtime engine from the executing application for instrumentation data available outside said managed code runtime environment." Indeed, while the Office Action cites various parameters (e.g., path, namespace) that may be used as parameter data to API calls made by application programs executing in the native code environment, the Office Action fails to cite to a passage in MSWMI that discusses an application program executing in a runtime environment that requests instrumentation that is available outside of the runtime environment. Indeed, applicants submit that MSWMI makes so such disclosure (since, at the time of publishing MSWMI, it was not contemplated or available.)

Regarding "transmitting a corresponding request for said instrumentation data to an instrumentation data source external to said managed code runtime environment," applicants submit that the Office Action has misconstrued the various citations to MSWMI as support for disclosing this element. Indeed, the cited passages discuss the functionality and internal workings of the WMI system – that of communicating with and obtaining data from objects (both hardware and software objects) in the computer system, sometimes referred to in MSWMI as managed objects. While MSWMI describes various aspects of WMI's functionality and operations, MSWMI fails to disclose a managed code environment as recited in Claim 1, and

therefore further fails to address "transmitting a corresponding request for said instrumentation data to an instrumentation data source external to said managed code runtime environment," as recited in Claim 1.

Regarding the recitations "receiving a response to said corresponding request from said instrumentation data source," and "converting said response to a format that is compatible with said managed code runtime environment," as MSWMI fails to disclose a managed code runtime environment, it follows that MSWMI further fails to disclose receiving a response corresponding to a request from a managed code environment for instrumentation data that is external to the managed code environment, and formatting the data from the response to a format consistent with the application within the managed code environment.

In view of the above, applicants submit that MSWMI and the APA of the present application fail to disclose the above-identified elements of independent Claim 1. As recited in the M.P.E.P. §2143, the key to supporting a rejection under 35 U.S.C. § 103 is a clear articulation of the reasons why the claimed invention would have been obvious. Moreover, the Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit. The Office Action has cited to various references within MSWMI and the APA of the application as disclosing the above-identified elements. However, neither MSWMI nor the APA discloses a managed code environment that provides the ability to applications executing within the managed code environment to access instrumentation data that exists external to the managed code environment. Since MSWMI and the APA fail to disclose these elements, there can be no clear articulation as to why the elements of Claim 1 would have been obvious in view of the cited references. Accordingly, a proper *prima facie* case of obviousness is not made and applicants request that the 35 U.S.C. § 103(a) rejection be withdrawn and the claim allowed.

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Claims 3-8

Claims 3-8 depend from independent Claim 1. As Claim 1 is in condition for allowance, applicants submit that Claims 3-8 are also in condition for allowance (when read in combination with Claim 1) and request that the 35 U.S.C. § 103(a) rejections be withdrawn and the claims allowed.

Claim 9

While differing in scope, Claim 9 recites subject matter similar to that found in independent Claim 1. In particular, Claim 9 recites, *inter alia*:

receiving a request from an application compiled from source written in a runtime-aware language into an intermediate form for instrumentation data representing management information about other applications and devices available outside the runtime environment, the request comprising a path of an instrumentation data object for accessing said instrumentation data, options used to retrieve the instrumentation data object, and a namespace of the instrumentation data object;

in response to said request, querying for said instrumentation data using the path of said instrumentation data object for accessing said instrumentation data;

determining whether said instrumentation data was successfully returned; and

in response to determining that said instrumentation data was successfully returned, constructing a management object in the runtime environment and populating said management object with said instrumentation data.
(Emphasis added.)

As discussed above, MSWMI and the APA of the present application fail to disclose obtaining instrumentation data that exists external to a runtime environment. Accordingly, applicants request that the 35 U.S.C. § 103(a) rejection be withdrawn and the claim allowed.

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Claims 10-17

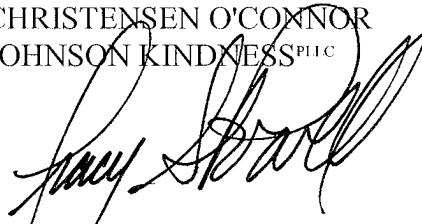
Claims 10-17 depend from independent Claim 9. As Claim 9 is in condition for allowance, applicants submit that Claims 10-17 are also in condition for allowance (when read in combination with Claim 9) and request that the 35 U.S.C. § 103(a) rejections be withdrawn and the claims allowed.

CONCLUSION

In view of the foregoing amendments and remarks, applicants submit that the pending claims are in condition for allowance over the cited and applied references. Reconsideration and allowance of the pending claims at an early date is requested. In order to facilitate the prosecution of this application, if the Examiner feels that there are outstanding issues that may be readily resolved, the Examiner is invited to contact the applicants' representative at the number below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Tracy S. Powell", is written over the printed name of the law firm.

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